

REDUNDANCY AND RETIREMENT POLICY
WDA/29/11

Recommendation

That:

1. Members approve the proposed Redundancy Policy and the Redundancy Selection Criteria Procedure; and
2. Members agree that enhanced redundancy payments, as allowed under The Local Government (Discretionary Payments) Regulations 1999 will not be adopted at this time but the Authority will continue to exercise its right under the regulations to consider each case on its merits.

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REDUNDANCY AND RETIREMENT POLICY
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Report of the Chief Executive

1. Purpose of the Report

- 1.1 To consider and approve a Redundancy Policy and the Redundancy Selection Procedure for the Authority.
- 1.2 Members are also asked to agree that enhanced redundancy payments, as allowed under the Local Government (Discretionary Payments) Regulations 1999, will not be adopted at this time but the Authority will continue to exercise its right under the regulations to consider each case on its merits.

2. Background

- 2.1 The Authority is committed to planning staffing levels effectively to meet the current and future needs of the service.
- 2.2 The Authority takes reasonable steps to avoid or minimise redundancies when possible. However, it recognises that modernisation, service improvements, reorganisation and financial constraints may affect staff levels and therefore redundancies may become necessary at a future date.
- 2.3 Redundancy is one of the fair reasons for dismissal and is covered by statutory employment legislation, the Employment Rights Act 1996 (ERA1996). In the event of a redundancy situation, the Authority is expected to operate within a well defined procedural framework, as well as following specific legal provisions, which underpin good practice.
- 2.4 In addition, a Redundancy Policy should be introduced and reviewed periodically to ensure it reflects changes arising from public sector Equality Duty under the Equality Act 2010 which came into force on 6th April 2011 and any subsequent changes in employment law.
- 2.5 The Authority does not currently have a Redundancy Policy. Members are asked to approve the proposed Redundancy Policy, which covers all staff, attached at Appendix 1. The policy provides a clear and consistent approach to be adopted in all cases of potential redundancy and ensures the Authority

meets the obligations placed upon it by the Equality Act 2010 and other employment law.

- 2.6 Members are also asked to approve The Redundancy Selection Criteria Procedure attached at Appendix 2, which works in conjunction with the Redundancy Policy and which would be utilised where there are multiple redundancies across similar responsibilities within the Authority. The procedure is used to ensure that the selection process is fair and consistent and not open to challenge. Members should note however, that, due to the size and diverse nature of the different roles within the Authority, there are few posts having the same or similar roles within the current establishment.
- 2.7 The procedure sets out the criteria which will prioritise selection for redundancy in the circumstances described in 2.6 above. These are:-
- Additional Skills
 - Qualifications
 - Absence due to ill-health
 - Disciplinary/Capability Record

3. Redundancy Payments

- 3.1 Under the Local Government (Discretionary Payments) Regulations 1996, it is at the discretion of the Authority to base the calculations of redundancy payments on the employee's actual week's pay or on the statutory maximum.
- 3.2 The proposed Redundancy Policy ensures that those employees who are made redundant and are eligible for redundancy payments will do so in accordance with the provisions of the Employment Protection (Consolidation) Act 1978. Such payments will take into account:-
- Previous continuous service with local authorities and other organisations specified within the Redundancy Payments (Local Government) (Modification) Order 1983, and the Transfer of Undertakings (Protection of Employment) Regulations 1981.
 - A calculation based on the employee's actual weeks pay in accordance with the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1990, or:

- A calculation based on the maximum statutory weekly rate of pay in force at the time (currently £400 from 1st February 2011) or the employee's normal rate of pay, whichever is the lower.
- 3.3 At a meeting of the Authority on 25th June 1999, (Report WDA/45/99) Members determined that employees selected for redundancy would receive redundancy payments based on their actual weeks pay, as opposed to the statutory limit on the amount of a week's pay.
- 3.4 Therefore, employees' who have left the Authority for reasons of redundancy have received redundancy pay calculated on their actual week's pay.
- 3.5 Basing the redundancy payments on actual weeks pay as opposed to the statutory minimum will ensure that redundancy payments are proportionate to the current salary of the individual at the time the redundancy is made.
- 3.6 The proposed Redundancy Policy reflects the decisions taken at that meeting to base the calculation on the employees' actual week's pay as opposed to the maximum statutory weekly rate.

4. Further Enhancements

- 4.1 The proposed Redundancy Policy also allows the Authority to potentially make further enhanced redundancy payments. The Local Government (Discretionary Payments) Regulations 1999 allows the Authority, at its discretion, to make additional payments to employees whose employment terminates on the grounds of redundancy or efficiency namely:-
- To pay compensatory added years – up to a maximum of 10 – to employees over 55 with 5 years' service, whose employment terminates on the grounds of redundancy or efficiency.
 - To pay any number of additional weeks pay, subject to a maximum of 66 weeks
 - To award a single compensatory sum rather than a credited period (added years)
- 4.2 At the meeting on 25th June 1999, Members determined that enhanced redundancy payments, as allowed under The Local Government (Discretionary Payments) Regulations 1999 would not be adopted at that time but that the Authority would exercise its right under the regulations to consider each case on its merits.

- 4.3 The proposed Redundancy Policy reflects this decision. However, should any future redundancies arise, a specific report will be provided to Members to determine whether they wish to reconsider their decision apply discretionary redundancy payments under The Local Government (Discretionary Payments) Regulations 1999 or to continue to exercise its right to consider each case on its merits.

5. Early Retirement

- 5.1 The proposed Redundancy Policy enables the Authority to consider seeking volunteers for early retirement, where it can be justified in the financial or managerial interest of the Authority.
- 5.2 The Authority currently has an Early Retirement scheme detailed within The Local Conditions of Service (Section 13).
- 5.3 The scheme details the provisions and payment that shall apply to the early retirement of any pensionable employee of the Authority to whom the provisions of the Local Government Superannuation Acts and Regulations apply.

6. Risk Implications

- 6.1 Failure to adopt the proposed Redundancy Policy, which is applicable to all employees could leave the Authority open to a claim of legal breach of employment duty in relation to fairness and consistency of employees selected for redundancy.
- 6.2 Where redundancy applies to particular jobs held by one or more individuals, the post(s) would be redundant without the need for a selection process. However, where there are multiple redundancies of similar job responsibility the Redundancy Selection Criteria Procedure will be utilised.
- 6.3 In the event that a redundancy situation cannot be avoided, and to ensure a fair and consistent approach, the Authority will utilise the Redundancy Selection Criteria Procedure attached at Appendix 2. Individuals will be selected for redundancy according to the needs of the service, on the basis of capability record, skills, qualifications, sickness absence and disciplinary record.
- 6.4 The application of the Redundancy Selection Criteria Procedure ensures that where multiple redundancies occur the Authority will not be at risk of a challenge in relation to unfair selection for redundancy.

7. HR Implications

- 7.1 The proposed Redundancy Policy reflects our commitment to ensuring fairness and consistency when dealing with any potential redundancy situations. It establishes how the Authority will treat all employees fairly and considerately in the selection process for redundancy and allows employees a mechanism for appeal to ensure it meets the required legislative obligations.
- 7.2 Awareness training on the Redundancy Policy and the Redundancy Selection Criteria Procedure will be given to all staff.

8. Environmental Implications

- 8.1 There are no Environmental Implications associated with this report.

9. Financial Implications

- 9.1 There are no immediate financial implications associated with this report.

10. Conclusion

- 10.1 The Authority does not currently have a Redundancy Policy. Previous redundancy arrangements were determined at the time under the relevant legislation.
- 10.2 The proposed Redundancy Policy provides a clear and consistent approach to be adopted in all cases of potential redundancy and ensures it meets the obligation placed upon it by statutory employment duty and the Equality Act 2010.
- 10.3 Members are asked to approve, for the purpose of redundancy payments, to continue to calculate payment of redundancy pay based on the employee's actual week's pay.
- 10.4 Members are asked to agree, that enhanced redundancy payments, as allowed under The Local Government (Discretionary Payments) Regulations 1999 will not be adopted at this time, but the Authority will continue to exercise its right under the regulations to consider each case on its merits.
- 10.5 Members are asked to approve the proposed Redundancy Policy. If, in the future any potential redundancies should arise, application of the Redundancy Policy will be subject to further reports for Members consideration in relation to enhanced redundancy payments.

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The background documents to this report are open to inspection in accordance with
Section 100D of The Local Government Act 1972 - Nil.